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2026:GAU-AS:16396

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/449/2025

DILIP HAZARIKA
SON OF LATE JHURAM HAZARIKA, SECRETARY OF TRIMURTI ANUSUSHITA JATI SIKHITA NIBONUWA SELF HELP GROUP, RESIDENT OF VILLAGAE TELIADUNGA PUKURIPAR, P.O.- BHARLUA TINALI, P.S.- GAURISAGAR, DIST- SIVASAGAR (ASSAM) PIN- 785664.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM, FISHERY DEPARTMENT, HAVING ITS OFFICE AT DISPUR, GUWAHATI-781006, DISTRICT- KAMRUP (M), ASSAM.

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
FISHERY DEPARTMENT
HAVING ITS OFFICE AT DISPUR
GUWAHATI-781006
DISTRICT- KAMRUP (M)
ASSAM.

3:THE DISTRICT COMMISSIONER
SIVASAGAR
HAVING ITS OFFICE AT SIVASAGAR TOWN
DISTRICT- SIVASAGAR
ASSAM.

4:THE ASSAM FISHERIES DEVELOPMENT CORPORATION LTD
(A GOVT. OF ASSAM UNDERTAKING) REPRESENTED BY ITS MANAGING DIRECTOR
HAVING ITS OFFICE AT CHACHAL
VIP ROAD
GUWAHATI-781036

KAMRUP (M)
ASSAM.

5:THE MANAGING DIRECTOR
ASSAM FISHERIES DEVELOPMENT CORPORATION LTD.
(A GOVT
OF ASSAM UNDERTAKING) HAVING ITS OFFICE AT CHACHAL
VIP ROAD
GUWAHATI-781036
KAMRUP (M)
ASSAM

BEFORE

HONOURABLE MR. JUSTICE DEVASHIS BARUAH

Advocate for the petitioner (s) : Mr. H. Buragohain, Advocate

Advocate for the respondent (s): Mr. P. Sarmah, SC, AFDC
Mr. G. Bokalial,
Govt. Advocate

Date on which judgment is reserved : NA

Date of pronouncement of judgment : 05.11.2026

Whether the pronouncement is of the Operative part of the judgment? : Yes

Whether the full judgment has been Pronounced? : No.

JUDGMENT AND ORDER (ORAL)

Heard Mr. H. Buragohain, the learned counsel appearing on behalf of the Petitioner. Mr. P. Sarmah, the learned counsel appears on behalf of Respondent Nos. 1, 2, 4 & 5 and Mr. G.

Bokalial, the learned Government Advocate appears on behalf of Respondent No.3.

2. The present writ petition is filed by the Petitioner assailing the order dated 25.11.2024 whereby the settlement so granted to the Petitioner of Teliadunga Krishnakur Beel vide the order of settlement dated 27.07.2021 was cancelled and the Petitioner was directed to deposit an amount of Rs.36,52,954/- immediately, failing which the same shall be recovered by registering a Bakijai case against the Petitioner to recover the same as outstanding revenue.

3. Shorn of unnecessary details, it is relevant to take note of that on 27.07.2021, the Managing Director of the Assam Fisheries Development Corporation Limited (for short, 'AFDC') settled the fishery, namely Teliadunga Krishnakur Beel, (for short, 'the fishery') for a period of 7 years at a total value of Rs.73,92,007/-. The Petitioner's annual payment for the settlement was Rs.10,56,001/-. On 06.12.2021, the Petitioner was directed to contact the AFDC for executing agreement and other relevant formalities as per the procedure.

4. It is of relevance at this stage to observe that prior to the passing of the order dated 06.12.2021, one Sri Sanjeeb Das was settled with the same fishery on 02.11.2021 in spite of the

existence of the order of settlement dated 27.07.2021. However, subsequent thereto, the said order dated 02.11.2021 by which settlement was granted in favour of the said Sri Sanjeeb Das was withdrawn by the Respondent AFDC vide another order dated 06.12.2021. It is of importance to take note of that the said Sri Sanjeeb Das had assailed the order dated 06.12.2021 by which the settlement made in his favour dated 02.11.2021 was withdrawn, by filing a writ petition being WP(C) No.7221/2021. In the said proceedings, the Petitioner was arrayed as the Respondent No.5. The said writ petition being WP(C) No.7221/2021 was listed before the learned Coordinate Bench of this Court on 22.12.2021. On the said date, the Petitioner herein appeared through his counsel and duly submitted before the Court that he was handed over the possession of the fishery as would be apparent from the order dated 22.12.2021.

5. The records further reveal that on 06.12.2021, the Petitioner was handed over the possession of the fishery as would be apparent from Annexure-5 to the writ petition. Subsequent thereto, a certificate of possession of land/fishery/made over to the party whom it was allotted was issued on 11.01.2022. The records reveal that the Petitioner continued to enjoy the settlement. There is a grievance of the Petitioner that some portion of the fishery, admeasuring 10 bighas each were taken

over by the Government of Assam under the Amrit Sarovar Scheme from January, 2024 and thereby the area of the fishery was drastically reduced.

6. It is an admitted fact that though the Petitioner was required to pay annually an amount of Rs.10,56,001/-, the Petitioner till the date of passing of the impugned order had only paid an amount of Rs.6,86,300/-. It is of further relevance that these payments were made immediately upon the order of settlement was issued, i.e. on 21.09.2021, 10.12.2021, 13.12.2021 and further another amount at the time when the tender was submitted. In other words, after the certificate issued for handing over of the possession on 11.01.2022 till the date of passing of the impugned order, the Petitioner did not make any payment.

7. It is also the case of the Petitioner that during the period when the Petitioner was in occupation of the fishery, a portion of the fishery was settled by the Mising Autonomous Council on 25.06.2024. Be that as it may, upon a writ petition being filed by the Petitioner being WP(C) No.3560/2024, this Court vide an order dated 17.07.2024 had stayed the settlement order made by the Mising Autonomous Council. In other words, at best the Petitioner can claim certain benefit for a period of 22 days and nothing more. This observation however has to be tested with

actual proof being shown by the Petitioner that his settlement was effected during this 22 days.

8. The Petitioner had submitted various representations and it is the case of the Petitioner that the Petitioner's representations were not considered in the right earnest.

9. This Court had also perused the records so produced by Mr. P. Sarmah, the learned Standing Counsel of the AFDC. A perusal of the records would show that the Petitioner was asked time and again to deposit the kist money and on each and every occasion, the Petitioner submitted application(s) that he would be depositing the kist money, but no kist money was deposited. It is under such circumstances, the impugned order was passed on 25.11.2024 whereby it was held that the Petitioner was liable to pay an amount of Rs.36,52,954/-. Out of the said amount of Rs.36,52,954/-, Rs.33,83,538/- was the revenue to be paid for the financial year 2023-24. For the financial year 2024-25 up to 15.06.2024, i.e. prior to even the Mising Autonomous Council granting a settlement, an amount of Rs.2,69,426/- was directed to be paid. In other words, the impugned order had no relevance to the settlement granted by the Mising Autonomous Council.

10. It is also relevant to observe that after cancellation of the settlement vide the impugned order, the fishery in question had

already been settled with some other person and there is no challenge to the said settlement. Therefore, the challenge to the impugned order now can only to be restricted to the question as to whether the imposition of the amount of Rs.36,52,954/- is in consonance with the order of settlement as well as the terms and conditions of the contract agreement entered into by and between the Petitioner and the AFDC.

11. This Court had heard the learned counsel appearing on behalf of the parties and perused the materials on record. Nothing could be placed before this Court by the Petitioner as to what was the extent area of the fishery in question which was settled. Nothing also could be placed as to how much the settlement of the fishery was affected on account of the Amrit Sarovar Scheme being initiated by the State Government. Question arises as to whether the Amrit Sarovar Scheme initiated by the Government of Assam in actuality affected the settlement made in favour of the Petitioner.

12. There is no quarrel with the proposition that the Petitioner having been granted the settlement was obligated in terms with the order of settlement as well as the agreement to make payment of the revenue. As already observed herein above, the Petitioner had only paid an amount of Rs.6,86,300/-, that too even prior to the certificate of possession dated 11.01.2022. In

other words, till the passing of the impugned order, the Petitioner did not pay any further amount other than the amount of Rs.6,86,300/-.

13. In the backdrop of the above facts, for a writ Court to exercise jurisdiction as to whether the Petitioner was affected by the Amrit Sarovar Scheme initiated by the State of Assam and to what extent it had been affected are questions of facts which can be looked into by the Managing Director of the AFDC, if a representation is submitted by the Petitioner. This Court therefore is not inclined to interfere with the termination order as well as the imposition of the amount of Rs.36,52,954/-.

14. Be that as it may, taking into consideration the doctrine of fairness, this Court observes that if the Petitioner is permitted to submit a representation placing the necessary facts and figures and directions issued to the Managing Director of the AFDC to consider as to whether the Petitioner would be entitled to any relaxation to the dues, it is the opinion of this Court that the same would meet the ends of justice.

15. Accordingly, the instant writ petition therefore stands disposed of with the following observations and directions:-

(i) This Court is not inclined to interfere with the order of cancellation of the settlement dated 25.11.2024.

(ii) An opportunity is granted to the Petitioner to submit a representation within a period of 30 days from the date of the present judgment to the Managing Director of the AFDC placing the necessary facts and figures by which the Petitioner was affected resulting in not able to discharge his obligation of payment of revenue. The Managing Director, AFDC shall on such representation being submitted duly consider the same on the basis of the extant facts and pass a speaking order within a period of two months from the day of submission of the representation.

(iii) It is further observed that prior to passing of the speaking order, the Managing Director of the AFDC shall provide a personal hearing to the Petitioner so that necessary facts and figures can be explained.

(iv) This Court further observes that the Managing Director, AFDC while considering the representation shall consider the same in accordance with the extent law as well as the terms and conditions of the settlement order.

(v) This Court further directs that as an opportunity for submitting a representation had been granted to the Petitioner, any Bakijai proceedings initiated against the Petitioner shall remain suspended for a period of one

month, if the Petitioner submits a representation within the period of one month from today.

(vi) It is further observed that in the circumstance, the Petitioner submits a representation in terms with liberty granted herein above within a period of one month from today, the Bakijai proceedings shall remain stayed till the disposal of the representation by the Managing Director of the AFDC.

(vii) The records so produced are returned to Mr. P. Sarmah, the learned Standing Counsel appearing on behalf of the AFDC.

(viii) The interim order passed earlier stands vacated.

JUDGE

Pradip Kumar Kalita
Digitally signed by Pradip Kumar Kalita
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Comparing Assistant